

Delaware Circuit Court Local Rules
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July, 2011

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LR18-AR00-DLR-002
COURT SCHEDULING
June 30, 2000

Circuit Court No. 1.

1. Criminal hearings shall commence on Mondays at 9:00 a.m.; and on Thursdays at 9:00 a.m.
2. Criminal jury trials will commence on Mondays at 8:30 a.m., unless otherwise noted.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 9:00 a.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays or Thursdays at 8:30 a.m.

Circuit Court No. 2.

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and Thursdays at 1:30 p.m.
2. Criminal jury trials will commence on Mondays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays or Thursdays at 8:30 a.m.

Circuit Court No. 3.

1. Criminal hearings shall commence on Mondays at 1:30 p.m. and Thursdays at 9:00 a.m.
2. Criminal jury trials will commence on Mondays or Wednesdays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 9:00 a.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Mondays or Wednesdays at 8:30 a.m.

Circuit Court No. 4.

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and 1:30 (bond reductions, bench trials, misc.) and Wednesdays at 9:00 a.m. and 1:30 p.m.
2. Criminal jury trials will commence on Fridays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Wednesdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays, Thursdays, or Fridays at 8:30 a.m.

Circuit Court No. 5

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and 1:30 p.m.; and Tuesdays at 9:00 a.m. and 1:30 p.m. Criminal pre-trial conferences will be held on Thursdays at 1:30 p.m.
2. Criminal jury trials will commence on Thursdays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Tuesdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Tuesdays or Wednesdays at 8:30 a.m.

A court calendar will be provided one day in advance, daily, to the Sheriff's Department by the Office of Court Services. Any changes made after distribution, the court staff will notify the Sheriff's Office.

LR18-SC00-DLR-003

Small Claims Practice and Procedure

June 30, 2000

A. Scope and Jurisdiction. These rules shall apply to all small claims proceedings in the Delaware Circuit Court No. 4 and Delaware Circuit Court No. 5 having jurisdiction over small claims as defined by relevant Indiana statutes. The plaintiff shall be required to pay a \$35.00 filing fee.

B. Execution of Documents. Pursuant to T.R. 9.2(H), original documents, including but not limited to the Notice of Claim, Affidavits, Petitions for Citation, and Motions for Proceedings Supplemental, require signatures that are made with express, implied, or apparent authority and not forged or stamped.

C. Communications with the Court. Any matter communicated to the Court, outside the courtroom, must be in writing and signed by the communicating party. Each communication should contain the cause number of the case, and a copy should be sent to all opposing parties.

D. Scheduling.

1. **Delaware Circuit Court No. 4:** Upon the filing of a complaint, an initial hearing shall be scheduled by the Clerk of the Court. At the initial hearing, the defendant will be expected to admit or deny liability of the claim.

If the defendant fails to appear at an initial hearing, a judgment may be entered upon proof of service. If the plaintiff fails to appear at the initial hearing, the Court may dismiss the action without prejudice.

If the defendant appears and admits liability, a Pre-Trial Settlement may be signed and filed by both parties.

If the defendant appears and denies liability, the Court shall set the matter for a bench trial and notify all parties involved.

2. **Delaware Circuit Court No. 5:** Upon the filing of a complaint, an initial hearing shall be scheduled by the Court staff. Parties are expected to be fully prepared for trial at the time of the initial hearing in the event the defendant denies liability.

E. Attorney Fees. A party requesting payment of attorney fees shall present to the Court a written affidavit detailing the time spent, services rendered, and hourly rate requested.

F. Continuances. A party may be granted a continuance for good cause shown upon filing a written motion signed by the moving party.

G. Judgments. A Default Judgment may be filed upon proof of service, and an Affidavit of Non-Military Service and Competency must be filed at that time.

H. Proceedings Supplemental. After a judgment has been entered but not paid, a party may file a Motion for Proceedings Supplemental and an Order to Appear in Court and Answer as to Wages, Assets, Property, and Income. The Clerk will provide the proper forms and a hearing date.

If additional efforts are needed to collect a judgment, the Clerk will provide an instruction sheet and additional forms to the parties.

I. Bankruptcy Stay. Any party seeking a stay of the proceedings as a result of a bankruptcy proceeding should file a copy of such Bankruptcy Petition and a showing that the debt was scheduled with the Court. The Court at that time will calendar the matter for one (1) year to set the matter for dismissal if, in fact, the party has not been discharged in bankruptcy.

J. Release of Judgment. After a judgment has been paid in full, it is the responsibility of the plaintiff to file a Release of Judgment with the Court.

K. Dismissals. A claim, counter-claim, or cross-claim may be dismissed by the party filing a written pleading at any time before judgment is entered. If a counter-claim or cross-claim has been filed, the dismissal of the original claim will not result in the cancellation of the hearing until the counter-claim or cross-claim has been dismissed.

L. Small Claims Manual. The complete Small Claims Manual is available for review at the Clerk's Office and is also on the Internet at <http://ecicnet.org/~dcclerk>.

LR18-DR00-DLR-004
Domestic Relation Cases
June 30, 2000

A. Petition for Modification. No Petition for Modification of Custody, Child Support, or Spousal Maintenance will be entertained unless a full year has elapsed from the date of the last decision of the court pertaining to custody, support or maintenance, except on showing by a verified petition requesting a hearing and setting forth in detail that an extreme emergency exists.

B. Order of Modification. Commencing on July 1, 2000, all Recorded Judgment Orders on Petitions to Modify Support Payments shall be accompanied with a change in support payment sheet. The Recorded Judgment Order submitted for signature WILL NOT be signed without a change in support sheet completed and attached, or proof that the same has been done with the Support Clerk of Delaware County. With the above procedure being followed, any arrearage to be determined will be computed automatically on the support records and will allow the attorneys access to said arrearage immediately.

A. Termination of Representative Capacity. Upon the entry of a final Decree of Dissolution of Marriage, Legal Separation, paternity, or an order of permanent modification of any custody, visitation, or child support, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:

1. An order of withdrawal granted pursuant to the Indiana Rules of Trial Procedure; or
2. The expiration of time within which an appeal of such order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure; or
3. The conclusion of any appeal of such order commenced pursuant to the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure.

B. Service of Pleadings. The service of any post dissolution pleadings upon any party not represented by counsel pursuant to Paragraph A above shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.

C. Courtesy Copy. Any copy served upon the withdrawn attorney will be deemed to be a matter of professional courtesy only.

LR18-DR00-DLR-005

Decree of Dissolution

January 16, 2002

Upon filing a Decree of Dissolution of Marriage, either by Summary Decree or after a contested hearing, the attorney submitting the Decree shall provide a Decree designated for distribution to the Court Administrator. The attorney shall provide this Decree in addition to all other copies required for the Court file, the order book, and the parties. The purpose of this Rule is to terminate all restraining orders and protective orders not granted in the Final Decree

LR18-CR00-DLR-006

Class D Felony (Additional Charges)

January 16, 2002

Defendants with pending class D felonies who are later charged with a more serious class of felony in Delaware County will be subject to transfer to the Court having jurisdiction of the more serious felony.

LR18-AR00-DLR-007

Public Defender Appointments (Indigent Determination)

January 16, 2002

Following a preliminary appointment of pauper counsel, the Office of the Public Defender may conduct further inquiry upon the eligibility of Defendants receiving court-appointed counsel. In the event the Public Defender determines that a Defendant may not be eligible for a court-appointed attorney, this issue may be brought to the attention of the court by way of a Motion to Withdraw.

Section One. Definitions

The following definitions shall apply under this local rule:

- (1) *A court reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other government entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, copy machines, fax machines, computer hardware, software programs, disks, tapes and any other device used for recording, storing and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week.
- (7) *Gap hours worked* means those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days through the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts of record in Delaware County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court. The county indigent transcript will also include any requests from the local Prosecutor's Office.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) *Private transcript* means a transcript that is paid for by a private party, but not limited to a deposition transcript.
- (14) *Expedited* means transcripts which are requested to be completed within three (3) days.
- (15) *Rush/Overnight* means transcripts which are requested to be completed within twenty-four (24) hours.

Section Two. Salaries and Per Page Fees.

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall inform the court reporter the manner in which the court reporter is to be compensated for gap and overtime hours, by receiving compensatory time off regular work hours.
- (2) The **maximum** per page fee a court reporter may charge for the preparation of a county indigent transcript shall be **\$4.00, including cover pages; \$1.00** per page for a copy of a transcript provided to the Public Defender's Office or the Prosecutor's Office; and **.50¢ per exhibit**. The fee for an "expedited" transcript (preparation within three (3) days) on a county case shall be

\$6.00 per page. The court reporter shall submit a claim voucher to the supervising judge for approval of payment by the county for the preparation of any county indigent transcripts.

(3) If a court reporter is requested to prepare an indigent “rush/overnight” transcript (preparation within twenty-four (24) hours or less), the per page fee shall be **\$7.00**.

(4) The **maximum** per page fee a court reporter may charge for the preparation of a State indigent transcript shall be **\$4.00; and, \$1.00** per page for a copy of a transcript; and **.50¢ per exhibit**. The fee for a State Public Defender requested “expedited” transcript (preparation within three (3) days) on a State indigent case will in no event exceed **\$6.00** per page. If a court reporter is requested by the State Public Defender to prepare an indigent “rush/overnight” transcript (preparation within twenty-four (24) hours or less), the per page fee shall be **\$7.00**.

(5) The **maximum** per page fee a court reporter may charge for the preparation of a private transcript shall be **\$4.25** with the court reporter being responsible for expenses as provided in Section Four (4), Paragraph Two (2). The fee for an “expedited” transcript (preparation within three (3) days) on a private case will be agreed upon between the court reporter and party requesting the same but in no event may exceed **\$6.25** per page. The court reporter may charge up to **\$1.00 per page** for a copy of a transcript (*including a disc copy*), or **\$1.00 per page** for an exhibit with the court reporter being permitted to use the court system’s copy machine outside of regular work hours. If so requested by a party, an “original copy” generated from the computer may be reproduced and charged at **one-half (½)** the transcript fee.

(6) If a court reporter is requested to prepare a private “rush/overnight” transcript (preparation within twenty-four (24) hours or less), the maximum per page fee shall be **\$7.25**. (7)

An additional labor charge approximating the hourly rate based upon the court reporter’s annual fixed compensation as reflected in the court budget, may be charged for the time spent binding the transcript and exhibit binders. The labor charge shall not exceed two (2) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the two (2) hour base.

(8) The Index and Table of Contents pages shall be charged at the per page rate being charged for transcript preparation either for county, state or private cases.

(9) A minimum fee up to \$35.00 per transcript shall be allowed for transcripts under eight (8) pages.

(10) The court reporter or designated court employee shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(11) The preparation of *any* transcript for payment shall not be performed during regular work hours, including but not limited to, transcribing, copying, or other functions related to the compilation of the transcript.

Section Three. Private Practice

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular work hours and the court reporter **will not** be allowed to utilize the court equipment to do so.

Section Four. Supplies

(1) All supplies for *County or State indigent transcripts*, i.e. transcript paper, binders and copy paper shall be provided through the court system’s office supply account.

(2) All supplies for *Private transcripts*, i.e. transcript paper, binders and copy paper shall be the responsibility of the court reporter. The court reporter will not be allowed to charge for the cost of such supplies due to the allotted fee approved herein for the preparation of a private transcript.

LR18-CR00-DLR-011

DISCOVERY AND MOTIONS IN LIMINE IN CRIMINAL CASES

DISCOVERY

July 16, 2003

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, the Prosecuting Attorney shall, within thirty (30) days after the initial hearing in any criminal action filed against the Defendant, furnish the attorney for the Defendant the following:

1. The names and addresses of persons whom the Prosecuting Attorney intends to call as witnesses at the trial, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the accused herein or any statements of others which contain a declaration of the accused.
3. Those portions of the Grand Jury minutes which contain statements of witnesses whom the Prosecutor intends to call and directly examine at trial, which statements are probably within the control of the prosecution and which statements will relate to matters covered in the witness' testimony in this case, for the purpose of cross-examination and impeachment of such witness' credibility.
4. The relevant testimony which is reduced to writing of persons whom the Prosecutor intends to call as a witness at the trial, but who did not testify before the Grand Jury.
5. Any reports or statements of experts made in connection with this case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
6. Any books, papers, documents, photographs or tangible objects, which the Prosecuting Attorney intends to use in the trial or which were obtained from or belong to the accused or his family.
7. Any record or prior criminal convictions of persons whom the Prosecutor intends to call as witnesses at the trial.
8. Any declarations against interest made by the Defendant.
9. Any evidence the Prosecutor might have, favorable to the Defendant.
10. Copies of any photographs which the prosecution has in its possession which it intends to introduce as evidence.
11. Any description of the Defendant's conduct, if any, that the prosecution intends to introduce as an implied admission.
12. Any promises, rewards, or inducements provided to prosecution witnesses or defense witnesses.
13. Any victim's statement that was recorded or memorialized and that is under the State's control.
14. Any and all medical reports in appropriate cases.
15. That portion of police reports containing substantially verbatim statements of witnesses.
16. The criminal record of the Defendant, including arrests and convictions.
17. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The State shall also allow counsel for the Defendant to examine any and all physical evidence, whether or not the prosecution intends to present the evidence at trial, within thirty (30) days after the initial hearing.

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, counsel for the Defendant shall, within thirty (30) days after receiving the discovery from the State of Indiana in any criminal action filed against the Defendant, furnish the attorney for the State of Indiana the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.

2. A summary of any special or statutory defense(s), which Defendant intends to make at a hearing or trial in this cause.

3. Names and last known addresses of persons Defendant intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to the Defendant.

4. Any books, papers, documents, photographs, or tangible objects Defendant intends to use as evidence or for impeachment at a hearing or trial.

If Defendant is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.

MOTIONS IN LIMINE

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, the following items are excluded from evidence, and the Court prohibits any reference at trial to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. The statutory penalty provided for the offense(s) charged, or any and all included offenses.

2. The fact that the Defendant failed to make a statement either orally or in writing at the time of his arrest.

3. Any questioning of the Defendant, or any statements which Defendant may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the Defendant.

4. Any previous arrest or detention of the Defendant which did not result in a conviction, or any other alleged offenses, purportedly involving Defendant, in which he was neither arrested nor charged.

5. Any prior conviction of the Defendant, except those which may be used for the purpose of impeachment.

The rule regarding Motions in Limine shall apply to cases in which the Defendant is not represented by an attorney.

LR18-CR00-DLR-012

Criminal Practice and Procedure

August 27, 2003

A. Assignment of Cases. In order to provide for the non-discretionary assignment of felony and misdemeanor cases beginning August 27th, 2003, the Circuit Court of Delaware County, Indiana, now adopts this local rule.

All felonies charging Murder, class A felony, class B felony, class C felony, or class D felony will be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred. The following monthly rotation is now established for the general jurisdiction of courts for Delaware County:

Circuit Court No. 1 - the first month (June, 2003);

Circuit Court No. 2 - the second month;

Circuit Court No. 3 - the third month;

Circuit Court No. 4 - the fourth month;

Circuit Court No. 5 - the fifth month;

Thereafter, the monthly rotation among the courts will continue in this sequence until further order.

In the event a misdemeanor is also charged in conjunction with a more serious offense, such additional charge shall be assigned to the same court having jurisdiction of the more serious offense.

In the event of multiple offenses, the date of the earliest offense alleged in the charging document shall control the assignment.

From and after August 31, 2003, all criminal cases filed in any division of Delaware County shall be filed in compliance with this rule and in the appropriate court as heretofore set out.

B. Transfer and Reassign. Any judge of a division of the Delaware Circuit Court, by appropriate Order entered in the Record of Judgments and Orders, may transfer and reassign to any of the other judges of a division of the Delaware Circuit Court in the county with jurisdiction to hear the charged offense any pending case subject to acceptance by the receiving court.

C. Refiling by the State. In the event the State of Indiana dismisses a case and later chooses to refile that case, the case shall be assigned to the court from which dismissal was taken.

In the event the State of Indiana dismisses a case, any subsequent related cases filed against such defendant within ninety (90) days shall be assigned to the court from which dismissal was taken.

D. Additional Related Charges. In the event additional related charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional related charges shall be assigned to the court of initial assignment.

E. Additional Unrelated Charges. In the event additional unrelated charges are filed against a criminal defendant subsequent to any other pending case assignment, the case or cases shall be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred.

F. Reassignment. In the event a change of judge is granted or it becomes necessary to assign another judge in a criminal proceeding in Delaware Circuit Court No. 1, Delaware Circuit Court No. 2 or Delaware Circuit Court No. 3, the rule following shall apply:

1. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 1, the case will be reassigned to the Delaware Circuit Court No. 2. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 2, the case will be reassigned to the Delaware Circuit Court No. 3. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 3, the case will be reassigned to the Delaware Circuit Court No. 4. Upon the granting of a change of judge or upon any order of reassignment by the judge of the Delaware Circuit

Court No. 4, the case will be reassigned to Delaware Circuit Court No. 5. Upon the granting of a change of judge or upon any order of reassignment by the judge of the Delaware Circuit Court No. 5, the case will be reassigned to Delaware Circuit Court No. 1.

In the event any judge of Delaware County to whom a case is assigned under this Section D, is unable or unwilling to serve due to current caseload or for any other reason, or in the further event that a successor judge is required, the case shall be reassigned by the clerk to another judge in Delaware County, excepting therefrom the judge from which the original change was requested and the judge who is unable or unwilling to serve. The clerk shall make the reassignment to the next qualified judge having appropriate jurisdiction in consecutive order as follows: Delaware Circuit Court No. 1, Delaware Circuit Court No. 2, Delaware Circuit Court No. 3, Delaware Circuit Court No. 4, and Delaware Circuit Court No. 5.

G. Master Commissioners. Each master commissioner shall, on a weekend rotating basis, be on call to the Delaware County Sheriff's Department for the approval of probable cause. The schedule will be determined by a designated master commissioner. Said rotation schedule will be provided by the designated master commissioner to other master commissioners, the Sheriff's Department, public defender, and the court administrator.

LR18-JD00-DLR-013
DISCOVERY AND MOTIONS IN LIMINE
IN JUVENILE DELINQUENCY CASES
October 21, 2003

DISCOVERY

In all filed juvenile delinquency cases, unless relieved by court order, the prosecuting attorney shall, within thirty (30) days after the initial hearing in any delinquency action filed against the child, furnish the attorney for the child the following:

1. The names and addresses of persons whom the prosecuting attorney intends to call as witnesses at the fact-finding hearing, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the child herein or any statements of others which contain a declaration of the child.
3. Those portions of the Grand Jury minutes which contain statements of witnesses whom the prosecutor intends to call and directly examine at the fact-finding hearing, which statements are probably within the control of the prosecution and which statements will relate to matters covered in the witness' testimony in this case, for the purpose of cross-examination and impeachment of such witness' credibility.
4. The relevant testimony which is reduced to writing of persons whom the prosecutor intends to call as a witness at the fact-finding hearing, but who did not testify before the Grand Jury.
5. Any reports or statements of experts made in connection with the case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
6. Any books, papers, documents, photographs or tangible objects, which the prosecuting attorney intends to use at the fact-finding hearing or which were obtained from or belong to the child or his family.
7. Any record or prior criminal convictions of persons whom the prosecutor intends to call as witnesses at the fact-finding hearing.
8. Any declarations against interest made by the child.
9. Any evidence the prosecutor might have, favorable to the child.
10. Copies of any photographs which the prosecution has in its possession which it intends to introduce as evidence.
11. Any description of the child's conduct, if any, that the prosecution intends to introduce as an implied admission.
12. Any promises, rewards, or inducements provided to prosecution witnesses or defense witnesses for the child.
13. Any victim's statement that was recorded or memorialized and that is under the State's control.
14. Any and all medical reports in appropriate cases.
15. That portion of police reports containing substantially verbatim statements of witnesses.
16. The delinquency record of the child, including arrests and adjudications.
17. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The State shall also allow counsel for the child to examine any and all physical evidence, whether or not the prosecution intends to present the evidence at the fact-finding hearing, within thirty (30) days after the initial hearing.

In all filed juvenile delinquency cases, unless relieved by court order, counsel for the child shall, within thirty (30) days after receiving the discovery from the State of Indiana in any delinquency action filed against the child, furnish the attorney for the State of Indiana the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.
2. A summary of any special or statutory defense(s), which the child intends to make at a hearing in this cause.
3. Names and last known addresses of persons the child intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior delinquency adjudication known to the child.
4. Any books, papers, documents, photographs, or tangible objects the child intends to use as evidence or for impeachment at a hearing.

If the child is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.

MOTIONS IN LIMINE

In all filed delinquency cases, unless relieved by court order, the following items are excluded from evidence, and the court prohibits any reference at the fact-finding hearing to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. The fact that the child failed to make a statement either orally or in writing at the time of his arrest.
2. Any questioning of the child, or any statements which the child may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the child.
3. Any previous arrest or detention of the child which did not result in a delinquency adjudication, or any other alleged offenses, purportedly involving the child, in which he was neither arrested nor charged.
4. Any prior delinquency adjudication of the child, except those which may be used for the purpose of impeachment.

The rule regarding Motions in Limine shall apply to cases in which the Child is not represented by an attorney.

LR18-JC00-DLR-014
DISCOVERY AND MOTIONS IN LIMINE
IN CHINS CASES
October 21, 2003

DISCOVERY

In all filed CHINS cases, unless relieved by court order, the attorney for the Delaware County Office of Family and Children (hereinafter **DFC**) shall, within thirty (30) days after the initial hearing in any CHINS action filed, furnish the attorney for the parent(s), guardian(s) or custodian(s) (hereinafter **PGC**) the following:

1. The names and addresses of persons whom the **DFC** intends to call as witnesses at the fact-finding hearing, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the *PGC* herein or any statements of others which contain a declaration of the *PGC*.
3. The relevant testimony which is reduced to writing of persons whom the **DFC** intends to call as a witness at the fact-finding hearing.
4. Any reports or statements of experts made in connection with the case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
5. Any books, papers, documents, photographs or tangible objects, which the **DFC** intends to use in the fact-finding hearing or which were obtained from or belong to the *PGC*.
6. Any record or prior criminal convictions of persons whom the **DFC** intends to call as witnesses at the fact-finding hearing.
7. Any declarations against interest made by the *PGC*.
8. Any evidence the **DFC** might have, favorable to the *PGC*.
9. Copies of any photographs which the **DFC** has in its possession which it intends to introduce as evidence.
10. Any description of the *PGC*'s conduct, if any, that the **DFC** intends to introduce as an implied admission.
11. Any promises, rewards, or inducements provided to **DFC** witnesses or *PGC* witnesses.

12. Any victim's statement that was recorded or memorialized and that is under the **DFC's** control.

13. Any and all medical reports in appropriate cases.

14. That portion of police reports containing substantially verbatim statements of witnesses.

15. The criminal record of the *PGC*, including arrests and convictions.

16. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The **DFC** shall also allow counsel for the *PGC* to examine any and all physical evidence, whether or not the **DFC** intends to present the evidence at the fact-finding hearing, within thirty (30) days after the initial hearing.

In all filed CHINS cases, unless relieved by court order, counsel for the *PGC* shall, within thirty (30) days after receiving the discovery from the **DFC** in any CHINS action filed against the *PGC*, furnish the attorney for the **DFC** the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.

2. A summary of any special or statutory defense(s), which the *PGC* intends to make at a hearing or fact-finding in this cause.

3. Names and last known addresses of persons the *PGC* intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to the *PGC*.

4. Any books, papers, documents, photographs, or tangible objects the *PGC* intends to use as evidence or for impeachment at a hearing or trial.

If the *PGC* is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.

MOTIONS IN LIMINE

In all filed CHINS cases, unless relieved by court order, the following items are excluded from evidence, and the Court prohibits any reference at fact-finding hearing to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. Any questioning of the *PGC*, or any statements which the *PGC* may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the *PGC*.

2. Any previous arrest or detention of the *PGC* which did not result in conviction, or any other alleged offenses, purportedly involving the *PGC*, in which he was neither arrested nor charged.

3. Any prior conviction of the *PGC*, except those which may be used for the purpose of impeachment.

The rule regarding Motions in Limine shall apply to cases in which the *PGC* is not represented by an attorney.

ORDER ESTABLISHING BAIL SCHEDULE

(This Schedule Replaces August 5, 2004 Bail Schedule)

A. Felonies

1. Unless otherwise ordered by the Court, there shall be **NO BOND** for the charges of Murder or Attempted Murder except by the Court after a hearing.
2. For any Class A or B felony offense, or a Class C felony offense involving a deadly weapon or serious bodily injury, bail shall be set by the Court after a hearing.
3. The presumptive bond amount for bail on a Class A felony offense (except those involving Dealing in Controlled Substances, including Cocaine and Methamphetamine) shall be Thirty Thousand (\$30,000.00).
4. The presumptive bond amount for bail on a Class A or B felony offense for Dealing in Cocaine, Dealing in Methamphetamine, or Dealing in a Controlled Substance shall be Fifty Thousand (\$50,000.00) total, regardless of the number of dealing offenses charged.
5. The presumptive bond amount for bail on a Class B felony shall be Twenty Five Thousand Dollars (\$25,000.00).
6. The presumptive bond amount for bail on a Class C felony shall be Ten Thousand Dollars (\$10,000.00).
7. The presumptive bond amount for bail on a Class D Felony shall be Five Thousand Dollars (\$5,000.00).
8. If the defendant has a prior felony conviction within the last Five (5) Years, bail shall be twice the amount unless otherwise specified in this section.
9. For any person charged with a Murder or a Class A, B, or C felony, *and* charged with being an Habitual Offender, bail is to be set at an additional Fifty Thousand Dollars (\$50,000.00).
10. For any person charged with a Class D felony, *and* charged with being an Habitual Offender, bail is to be set at an additional Ten Thousand Dollars (\$10,000.00).

B. Misdemeanors

1. For class A misdemeanors, bail shall be Two Thousand Five Hundred Dollars (\$2,500.00);
2. For class B misdemeanors, bail shall be One Thousand Dollars (\$1,000.00);
3. For class C misdemeanors, bail shall be Five Hundred Dollars (\$500.00).

C. Other Provisions

1. Persons shall be held without bond until the Pre-Charge Initial Hearing who are arrested and in which:
 - a. the true identity of a defendant is unknown; or
 - b. there is good cause to believe the defendant is on probation, home detention/house arrest, parole, on bond, on pre-trial release to probation, or participating in the Forensic Diversion Drug Court Program.
2. Delaware County Jail shall place a Fifteen (15) Day hold on any offender upon request by a Delaware County Probation Officer or a Parole Officer employed by the State of Indiana. If the officer fails to initiate probation or parole revocation proceedings within the Fifteen (15) Day period, the hold shall expire.

3. **Intoxication:** The Sheriff of Delaware County shall not release any person unless such person clearly manifests that they are in a state of sobriety at the time the provisions of this Order would otherwise permit release.
The Sheriff shall hold in custody any person who is under the influence of alcohol or controlled substances until such time it is determined, at the Sheriff's discretion, that the individual may be safely released without danger to self or others.
4. **Domestic Violence:** The Sheriff shall not release a person arrested on a charge involving domestic violence until Twelve (12) Hours has elapsed or until appearance in court, whichever is earlier. After Twelve (12) Hours, the person may post bail (1) pursuant to other provisions in this Bail Order, and (2) after signing a No Contact Agreement protecting the victim. If the person refuses to sign a No Contact Agreement, the Sheriff shall hold the person until brought to court.
5. **Overweight Trucking Violations:** The bail schedule as set out in this Order shall not apply to overweight trucking violations. Bail for such offenses shall be convened by I.C. 9-20-1, et seq.
6. **Full Cash Bond:** When any person proposes to post a full bond in cash or by certified check and the Clerk's Office is not open for business, the Sheriff shall accept the money or certified check and issue a release to the person making the payment. The bond must be placed in the name of the arrested person. The Sheriff shall deposit the money or certified check with the Clerk as soon as possible.
7. **10% Cash Bonds:** The Clerk may not accept a Ten Percent (10%) cash deposit in lieu of bond, except upon written Order of a judge. If the Court approves such a bond, the Clerk may retain as a service fee Ten Percent (10%) of the amount deposited, or Fifty Dollars (\$50.00), whichever is the lesser amount when the bond is released at the conclusion of the case.
8. **Amount of Bail on Warrant:** If the bail is set at a probable cause hearing, the amount of bail set by the judge shall be endorsed upon the arrest warrant.
9. **Release of Bond:** The Clerk shall not release a cash bond, except upon a judge's written Order after judgment has been entered and any fines and costs imposed by the Court have been paid and satisfied.
10. This Order shall not be interpreted to limit judicial discretion.
11. If the Delaware County Prosecuting Attorney believes a higher bond is necessary for the safety of witnesses and/or protection of the community, the Prosecutor may request a deviation from the scheduled bond amount.
12. A judge may impose any or all of the following Conditions of Release:
 - a. Report to the Probation Officer Supervising the Pre-Trial Release Program;
 - b. Remain in the supervisory custody of a named responsible person;
 - c. Live and stay at a specified address;
 - d. Remain in the State of Indiana;
 - e. Have no contact with the victim/complaining witness;
 - f. Not use or possess alcohol;
 - g. Not use or possess any controlled substances unless on order of a physician;

- h. Submit to drug/alcohol testing at your expense;
- i. Remain at residence other than at specified hours for specified purposes;
- j. Not possess a firearm or other dangerous weapon;
- k. Seek and maintain full time employment/student status;
- l. Undergo necessary medical or psychiatric treatment, including drug or alcohol abuse treatment;
- m. Commit no criminal offense.
- n. Comply with any other condition reasonably calculated to assure appearance in court as required or to assure the safety of any other person and the community.
- o. Defendant specifically agrees to waive extradition from any jurisdiction inside or outside the United States, wherever he/she may be found, and also agrees not to contest any effort to return him/her to the State of Indiana.

The Clerk of the Court is ORDERED to place a copy of this Order in the Record of Judgments and Orders of the Delaware Circuit Court.

Signed Signatures on May 16, 2011.

Marianne Vorhees, Judge
Delaware Circuit Court No. 1

Richard A. Dailey, Judge
Delaware Circuit Court No. 2

Linda Ralu Wolf, Presiding Judge
Delaware Circuit Court No. 3

John M. Feick, Judge
Delaware Circuit Court No. 4

Thomas A. Cannon Jr., Judge
Delaware Circuit Court No. 5

LR18-TR79-DLR-0601

Local Rules of Civil Practice and Procedure

Amendment

The following local rule regarding selection of special judges where a special judge does not accept a civil case under TR 79(D), (E), or (F), is now adopted by the undersigned judges of the Delaware Circuit Court, in conjunction with the other Courts of Administrative District 15.

A. Assignment - Civil. In civil cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); do not agree to have the sitting judge appoint a special judge pursuant to TR 79(E); or in cases under TR 76 the judge selected from the panel under TR 79(F) declines to accept jurisdiction, the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the judges from the following available panel of judges (omitting the judge from whom the change of venue is being taken):

- a. Presiding Judge, Delaware Circuit Court No. 1;
- b. Presiding Judge, Delaware Circuit Court No. 2;
- c. Presiding Judge, Delaware Circuit Court No. 3;
- d. Presiding Judge, Delaware Circuit Court No. 4;
- e. Presiding Judge, Delaware Circuit Court No. 5;
- f. Presiding Judge, Blackford Circuit Court;
- g. Presiding Judge, Blackford Superior Court;
- h. Presiding Judge, Henry Circuit Court;
- i. Presiding Judge, Henry Superior Court No. 1;
- j. Presiding Judge, Henry Superior Court No. 2;
- k. Presiding Judge, Jay Circuit Court;
- l. Presiding Judge, Jay Superior Court;
- m. Presiding Judge, Randolph Circuit Court; and
- n. Presiding Judge, Randolph Superior Court.

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court to appoint a special judge.

B. Assignment – Juvenile. In juvenile cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); do not agree to have the sitting judge appoint a special judge pursuant to TR 79(E); or in cases under TR 76 the judge selected from the panel under TR 79(F) declines to accept jurisdiction, the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the following available judges (omitting the judge from whom the change of venue is being taken):

- a. Presiding Judge, Delaware Circuit Court No. 2;
- b. Presiding Judge, Blackford Circuit Court;
- c. Presiding Judge, Henry Circuit Court;
- d. Presiding Judge, Henry Superior Court No. 1;
- e. Presiding Judge, Jay Circuit Court; and
- f. Presiding Judge, Randolph Circuit Court;

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court to appoint a special judge.

C. Maintaining Separate Lists. The Delaware County Clerk shall maintain separate civil and juvenile lists, in the rotation order as set forth in this Rule, from which the clerk may determine the appropriate appointment in civil and juvenile cases.

D. Limitation of Certain Cases. If a court in Delaware County has reached the limitation on cases as set out in Local Rule 18-AR01-DLR-0602 (Reallocation and Reassignment of Cases), that judge shall not be placed on the Special Judge Panel under TR 79(F).

LR18-AR00-DLR-0602

**In Re: The Business of the Delaware Circuit Court
REALLOCATION AND REASSIGNMENT OF CASES**

March 24, 2006, Effective January 1, 2007

Pursuant to Indiana Rules of Trial Procedure, Trial Rule 81, the Circuit Court of Delaware County hereby submits this Reallocation and Reassignment of Cases for amendment. After approval by the Indiana Supreme Court and after publication and posting for thirty (30) days in the county clerk's office(s) as well as the county clerk's website and on the Indiana Judicial Website, the court will enter an effective date for this rule amendment, as follows:

WHEREAS, the Board of Judges has revised the allocation of case assignments; and

WHEREAS, the Board of Judges is authorized to transfer cases between judges and divisions of the court; and

WHEREAS, the Board of Judges has determined that the efficient administration of justice is better served by a reallocation of certain types of cases.

NOW, THEREFORE, the Board of Judges of the Delaware Circuit Court, by its Presiding Judge, Orders and Directs the following:

(A) That the Clerk of Delaware County, upon direction of a transfer of any case holding a judgment, garnishment, bail bond, or otherwise, shall within said transfer, perfect the necessary changes to provide for the efficient and accurate accounting of all payments made toward any judgment rendered, including, but not limited to, garnishment payments made through a garnishee defendant, the release of judgments, bail bonds or other matters pertaining to said original cause and the transfer therein. In the perfection of the within Order, the Clerk shall notify interested parties to the action and the garnishee defendant.

(B) Cases filed prior to January 1, 2007 will remain in the court of origin, unless otherwise ordered.

(C) Effective January 1, 2007 the limitation of filings will be in place without exception. The allocation of cases will be as follows:

Circuit Court No. 1

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C felonies or D felonies-

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), ES, EU, GU, TR (Probate)

Circuit Court No. 2

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C or D felonies.

Juvenile: JP (Juvenile Paternity), JD (Juvenile Delinquency), JS (Juvenile Status), JM (Juvenile Miscellaneous), JC (Juvenile CHINS), JT (Juvenile Termination)

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), RS (Reciprocal Support)

Circuit Court No. 3

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C or D felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), MH (Mental Health)

Circuit Court No. 4

Criminal: Felonies which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), -misdemeanors in conjunction with Murder, or A, B, C, or D felonies, class A Misdemeanors and (IF) Infractions.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales) PO (Protective Order), SC (Small Claims)

Circuit Court No. 5

Criminal: Felonies which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), -misdemeanors in conjunction with Murder, or A, B, C, or D felonies, class A Misdemeanors and (IF) Infractions.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous – INCLUDING tax sales), PO (Protective Order), SC (Small Claims), ES, EU, GU, TR (Probate)

(D) Assignment of cases as heretofore set out will continue to be subject to all Local Rules regarding non-discretionary assignment of felony and misdemeanor cases.

(E) Assignment of cases, effective January 1, 2007, the Clerk of Delaware County shall perfect the following limitation of filings:

1. (MF) Mortgage Foreclosure: 100 each court, and then commence again (i.e. when each court has 100 foreclosures, then the limitation will begin again until reached with 200, and etc.)
2. (CC) Civil Collections: 200 each court, and then commence again (i.e. when each court has 200 Civil Collections, then the limitation will begin again until reached with 400, and etc.)
3. (DR) Domestic Relations: 100 each court, and then commence again (i.e. when each court has 100 Domestic relations, then the limitation will begin again until reached with 200 and etc.)
4. (PO) Protective Orders: 100 each court, and then commence again (i.e. when each court has 100 Protective Orders, then the limitation will begin again until reached with 200, and etc.)
5. (MI) Miscellaneous: 75 each court, and then commence again (i.e. when each court has 75 Miscellaneous, then the limitation will begin again until reached with 150, then, etc.) Exception: Circuit Court No. 5 will receive all Tax Sale filings regardless of count.

**In the
Indiana Supreme Court
IN THE MATTER OF)
REQUEST FOR APPROVAL)
OF LOCAL RULES)
FOR COURTS OF RECORD IN)
DELAWARE COUNTY**

Case No. 18S00-0806-MS-312

**May 2nd, 2008
REQUEST FOR APPROVAL OF LOCAL RULE
RE-ADOPTING CURRENT CASELOAD
ALLOCATION RULE**

The judges of the courts of record of Delaware County have met and reviewed the 2007 weighted caseload statistics of the courts of record, which review reveals that the difference in utilization between any two courts of record does not exceed .40 based on the 2007 Weighted Caseload Report.

Accordingly, the judges of the courts of record have decided to re-adopt their local rule pertaining to caseload allocation as required by Administrative Rule 1, which local rule had previously been published for public comment as required by Trial Rule 81 and which has been approved by the Supreme Court, and request the Supreme Court to approve the re-adoption of the local caseload allocation rule.

Submitted Signed May 2, 2008.
For the Courts of Record of Delaware County
DELAWARE COUNTY BOARD OF JUDGES
Marianne Vorhees, Judge, Delaware Circuit Court No. 1
Richard A. Dailey, Judge, Delaware Circuit Court No. 2
Robert L. Barnet, Judge, Delaware Circuit Court No. 3
John M. Feick, Judge, Delaware Circuit Court No. 4
Wayne J. Lennington, Judge, Delaware Circuit Court No. 5

LR18-JR00-DLR-0604
DELAWARE COUNTY
INSTRUCTIONS TO JURY ADMINISTRATOR

As provided by law, the court administrator has been appointed as jury administrator for the Delaware Circuit Court.

You are instructed that the law provides that any person appointed jury administrator shall administer the jury assembly process as follows:

A. Uniform Jury Selection. The jury administrator and the supervising judge under the plan will provide a uniform system of jury selection for the courts ensuring that persons selected for jury service are selected at random from a fair cross section of the population of Delaware County. A computerized jury selection system will be fair and will not violate the rights of persons with respect to impartial and random selection of prospective jurors.

C. Jury Selection Plan. The jury administrator, under the supervision of the supervising judge, shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of, and otherwise comply with Indiana Jury Rules. The Jury Selection Plan of the jury administrator is attached hereto and marked as Jury Selection Plan 2006-01.

D. Master List. The jury administrator shall compile and maintain a master list consisting of the approved Jury Pool Master List for Delaware County.

E. Juror Service. Names must be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing of names for the next quarter will be held during the first or second week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury administrator.

1. The jury administrator shall create and file an alphabetical list of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet computer record filed together to constitute the alphabetical list. Names may not be added to the alphabetical list, except by order of the court. Neither the names drawn nor any list compiled from the alphabetical list may be disclosed to any person other than by order of the supervising judge.

2. Names must be drawn randomly pursuant Jury Rule 3.

3. Names drawn from the master list may not be returned to the master list until all nonexempt persons on the master list have been called.

F. Random drawing of names. 1. The master list will contain names in a sequential order, such as a numeric sequence, the drawing of names from the master list must be performed in the following manner: (1) The total number of names on the master list is divided by the number of names to be drawn. The next whole number greater than the resulting quotient is the key number, except that the key number is never less than 2. (2) A starting name for making the selection is determined by randomly choosing a number between 1 and the key number, inclusive. (3) The required number of names is selected beginning with the starting name selected under subdivision (2) and proceeding to successive names appearing in the master list at intervals equal to the key number, re-commencing at the beginning of the list until the required number of names is selected. (4) Upon re-commencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subdivision (3) must be disregarded in selecting the additional names. (5) An electronic or a mechanical system may be used to draw names from the master list.

G. Jury Qualification Form. The provisions of Jury Rule 4 will be followed in that not later than 7 days after the date of the drawing of names from the master list, the jury administrator shall cause to be mailed to each person whose name is drawn a juror qualification form. (a) The

form will be designed to reflect the prospective juror's name, address, and age; (b) Whether the prospective juror is a citizen of the United States and a resident of the county; is able to read, speak and understand the English language; (c) Has any physical or mental disability impairing the person's capacity to render satisfactory jury service; (d) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so. (e) If it appears there is an omission, ambiguity, or error in a returned form, the jury administrator shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury administrator not later than 10 days after its second receipt. (f) A prospective juror who fails to return a completed juror qualification form as instructed must be directed by the jury administrator to immediately appear before the jury administrator to fill out a juror qualification form.

H. Disqualification for jury service. The supervising judge or the jury administrator shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury administrator shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list. (b) The ISSUING judge, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or an interview with the prospective juror whether the prospective juror may be excused from jury service. The jury administrator shall enter this determination in the space provided on the juror qualification form. (c) A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing when the person is re-summoned. Appropriate records must be maintained by the jury administrator to facilitate re-summoning.

I. Exemption. A person who has completed a term of jury service in the twenty-four (24) months preceding the date of the person's summons may claim exemption from jury service.

J. Deferral. The judge or judges' designee may authorize deferral of jury service for upon to one (1) year upon a showing of hardship, extreme inconvenience, or necessity. Deferral requests made after the issuance of summons for prospective jury duty, must be approved by the Issuing Judge. The Issuing Judge may determine if the deferral request may be made by fax or in person. Deferrals may be given one (1) time per year.

K. Grand Jury. Upon receipt of an order for a grand jury, the jury administrator shall issue a request to Data Processing to randomly twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after explaining to the twelve (12) prospective jurors the duties and responsibilities of a grand jury.

The names of qualified jurors drawn and the contents of the jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired. However, attorneys in any cases in which these jurors may serve may have access to the information.

L. Preservation of Record. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury administrator or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the Indiana supreme court. The records and papers must be available for public inspection at all reasonable times.

LR18-JR00-DLR-0605
Delaware County Computerized
Jury Selection Plan 2006-1

1. The Master Jury List will be created each year during the month of November containing the citizens of Delaware County from Bureau of Motor Vehicles and Indiana Department of Revenue lists for the county eighteen (18) years of age and older. The court administrator will be referred to as the "jury commissioner" throughout this plan.

2. To create the Master List, the names of persons from the Bureau of Motor Vehicles and Indiana Department of Revenue lists for the county eighteen (18) years of age and older will be submitted to Data Processing on disc as provided by the Indiana Supreme Court. The final list will contain 20,000 names.

An example for originating a master list would be: 188,000 names as the approximation in Paragraph 1. The percentage determined is 40% from voters; 40% from taxpayers and 20% from utility customers. To determine the key number, a key number is determined by multiplying the 40% of the 20,000 names needed, the result being 8,000 divided by the 75,200 voters - making your key number 10 - a number is selected by the designated person between the number 1 - 10, ex. 5 - then you start with the number 5 and select every 10th person until you have reached your goal. The same principle is applied with the other sources.

3. Once Data Processing has the request and the starting number and key number are determined, the list of 20,000 names is generated. The list will be manually reviewed by the jury commissioner by striking businesses, persons not living in Delaware County, persons without addresses listed, and striking the name of one person when two are listed, such as husband and wife.

4. During the first week of the second month of each quarter, the jury commissioner will cause a draw of 2,500 names for petit jurors and 100 names for grand jurors from the Master List. Jury Questionnaires will be mailed and processed. A quarterly master list will be kept of all qualified jurors. A separate list of those persons excused from jury service will be maintained in a numerical table. Upon completion and compilation of the new quarterly list, Data Processing will be notified of all changes to be made.

4. To perfect the issuance of a Venire, the court personnel will submit a Venire Request with the Cause Number, name of case, the number of names to be called, and the date and time of the trial, along with a Venire Order signed by the Judge, including the Cause Number and the name of the case.

5. For issuance of a Venire, a random number will be selected from a series of numbers provided by Data Processing, pursuant to Paragraph 2 herein. Those persons selected from that number will be temporarily removed until all non-exempt persons have been called. All persons seated for jury service within the quarter will be removed permanently from the year's list, along with those excused or deferred pursuant to statute.

6. Non-exempt persons who request to be excused from jury service should first initiate the call through the Office of Court Services. Requests not included, per statute, shall be referred to the issuing court.

7. The number of petit jurors that constitutes a panel for criminal C felony and higher shall be 50 names. An additional number of names may be issued for specific cases requiring a larger pool of prospective jurors. The number of petit jurors that constitutes a panel for civil cases shall be 30, along with class D felonies and misdemeanors.

8. The number of grand jurors to be drawn for service will be 12. The procedure for selection shall be the same as the petit jury draw with Data Processing providing the key number and the random selection of numbers to be used.

LOCAL RULE: LR18-AR00-DLR-0701

IN RE: ADOPTION OF A LOCAL RULE REGARDING A SCHEDULE OF FEES FOR COURT ALCOHOL AND DRUG PROGRAM SERVICES AND FORENSIC DIVERSION DRUG COURT SERVICES

February 5, 2007

Pursuant to Indiana Rules of Trial Procedure, Trial Rule 81, the Circuit Court of Delaware County hereby submits this Establishment of an administrative rule regarding the Schedule of Fees for the Court Alcohol and Drug Services Program, and Forensic Diversion Drug Court Program. After approval by the Indiana Supreme Court and after publication and posting for thirty (30) days in the county clerk's office(s) as well as the county clerk's website and on the Indiana Judicial Website, the court will enter an effective date for the local administrative rule of procedure.

The schedule of fees set forth under Indiana Code 33-37-4-1, Indiana Code 35-38-2-1, Indiana Code 12-23-14-1, *et seq.* and Indiana Code 12-23-14.5 *et seq.* shall be applicable in all court alcohol and drug program services, and the forensic diversion drug court program as follows:

COURT ALCOHOL & DRUG PROGRAM

___ One (1) year	\$400.00	___ Six (6) months	\$200.00
(Includes baseline screen, education and assessment)		(Includes baseline screen, education and assessment)	

FORENSIC DIVERSION DRUG COURT

___ Three years \$500.00

EDUCATION CLASS ONLY

___ 8 hour class	\$125.00	___ Anger Management	\$200.00
___ 12 hour class	\$150.00	___ CHOICES	\$300.00
___ 20 hour class (PRI)	\$200.00	___ Thinking for a Change	\$200.00

(All education classes include baseline screen and assessment)

COMMUNITY SERVICE (Adult)

___ Initial fee (Felony)	\$100.00	___ Initial fee (Misd.)	\$ 75.00
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HOME DETENTION

(Electronic monitoring - Adult)

___ Initial fee	\$ 50.00	___ Moving monitor	\$ 75.00
___ Daily rate (adult)	\$ 6.00	___ Transfer Fee	\$ 50.00

OTHER SERVICES AND ADDITIONAL CHARGES

___Transfer Fee	\$100.00	___Drug/alcohol evaluations	\$ 50.00
___Urinalysis (each screen)	\$ 15.00	___DUI Awareness panel	\$ 25.00

All of Which is So Done this 5th day of February, 2007.

(All signatures on file)

Marianne Vorhees, Judge, Delaware Circuit Court No. 1

Richard A. Dailey, Judge, Delaware Circuit Court No. 2

Robert L. Barnet, Judge, Delaware Circuit Court No. 3

John M. Feick, Judge, Delaware Circuit Court No. 4

Wayne J. Lennington, Judge, Delaware Circuit Court No. 5

CAUSE NO. 18C01-0801-CB-0001
ORDER ON ASSIGNMENT OF JUDGES
February 13, 2008

The Judges of the Delaware Circuit Court, which is one Circuit Court in Five (5) Divisions, pursuant to Indiana Code section 33-33-18-2(b) and Local Rule 18-AR00-DLR-0602, find as follows:

1. As to any criminal cases which may be transferred from the Delaware Circuit Court No. 5 shall be assigned as follows: the first Five (5) cases shall be transferred to the Circuit Court No. 1; the next five (5) cases shall be transferred to Circuit Court No. 2; the next five (5) cases shall be transferred to Circuit Court No. 3; the next five (5) cases shall be transferred to Circuit Court No. 4; this rotation shall repeat as necessary.
2. Any and all cases relating to a property in a tax sale are removed from the Honorable Wayne J. Lennington and assigned to the Honorable Marianne L. Vorhees, who is serving as Presiding Judge for the Delaware Circuit Courts in 008. All cases shall remain in Circuit Court No. 5 with Circuit Court No. 5 Cause Numbers. All filings shall be filed and processed in the Circuit Court No. 5.

SO ORDERED this 13th day of February, 2008.

(All signatures on file)

Marianne Vorhees, Judge, Delaware Circuit Court No. 1

Richard A. Dailey, Judge, Delaware Circuit Court No. 2

Robert L. Barnet, Judge, Delaware Circuit Court No. 3

John M. Feick, Judge, Delaware Circuit Court No. 4

Wayne J. Lennington, Judge, Delaware Circuit Court No. 5

CAUSE NO. 18C01-0801-CB-0001
SECOND ORDER ON ASSIGNMENT OF JUDGES
February 21, 2008

The Judges of the Delaware Circuit Court, which is one Circuit Court in Five (5) Divisions, pursuant to Indiana Code section 33-33-18-2(b) and Local Rule 18-AR00-DLR-0602, find as follows:

1. Any and all criminal cases now pending in the Delaware Circuit Court No. 5 are removed from the Honorable Wayne J. Lennington and assigned to the other judges of the Delaware Circuit Court. All cases shall remain in Circuit Court No. 5 with Circuit Court No. 5 Cause Numbers. All filings shall be filed and processed in the Circuit Court No. 5.
2. For caseload balance, the following civil cases shall be filed in the Delaware Circuit Court No. 5, regardless of case caps, until further Order: Protective Orders; Mortgage Foreclosures; Civil Collections; and any Domestic Relations matters where a party does not designate a Court. The Delaware County Clerk is directed to follow this Second Order on Assignment of Judges with respect to these civil filings only.

SO ORDERED this 21st day of February, 2008.
(All signatures on file)

Marianne Vorhees, Judge, Delaware Circuit Court No. 1
Richard A. Dailey, Judge, Delaware Circuit Court No. 2
Robert L. Barnet, Judge, Delaware Circuit Court No. 3
John M. Feick, Judge, Delaware Circuit Court No. 4
Wayne J. Lennington, Judge, Delaware Circuit Court No. 5

CAUSE NO. 18C01-0801-CB-0001

**AMENDMENT TO
SECOND ORDER ON ASSIGNMENT OF JUDGES
March 4, 2008**

The Judges of the Delaware Circuit Court, which is one Circuit Court in Five (5) Divisions, pursuant to Indiana Code section 33-33-18-2(b) and Local Rule 18-AR00-DLR-0602, find as follows:

1. Any and all criminal cases now pending in the Delaware Circuit Court No. 5 are removed from the Honorable Wayne J. Lennington and assigned to the other judges of the Delaware Circuit Court. All cases shall remain in Circuit Court No. 5 with Circuit Court No. 5 Cause Numbers. All filings shall be filed and processed in the Circuit Court No. 5.
2. For caseload balance, the following civil cases shall be filed in the Delaware Circuit Court No. 5, regardless of case caps, until further Order: ALL Mortgage Foreclosures; ALL Civil Collections.
3. Any Domestic Relations matters where a party DOES NOT designate a specific Court, shall be filed in Delaware Circuit Court No. 5, regardless of cap, until further Order.
4. Any Protective Order matters where a case is pending in another court shall be filed with the relating cause; ALL other Protective Order cases shall be filed in Delaware Circuit Court No. 5, regardless of cap until further order.

The Delaware County Clerk is directed to follow this Amendment to the Second Order on Assignment of Judges with respect to these civil filings only.

CAUSE NO. 18C01-0801-CB-0001

ORDER RESCINDING ALL ORDERS ON ASSIGNMENT OF JUDGES

May 14, 2008

The Judges of the Delaware Circuit Court, which is one Circuit Court in Five (5) Divisions, pursuant to Indiana Code section 33-33-18-2(b) and Local Rule 18-AR00-DLR-0602, find as follows:

For caseload balance, the following civil cases shall be filed in the Delaware Circuit Court No. 4, commencing immediately, regardless of case caps: Civil Collections until such time as the case count reaches 500. At that time, said cases shall then be filed in Circuit Courts No. 1, No. 2 and No. 3 until each of those courts reach the limitation of 200 as per the original Reallocation and Reassignment of Cases in effect as of January 1, 2007.

All other Orders on Assignment of Judges are rescinded forthwith. The Clerk is directed to return immediately to the original Order of Reallocation and Reassignment of Cases, in effect as of January 1, 2007.

ALL OF WHICH IS SO ORDERED this 14th day of May, 2008.

(All signatures on file)

Marianne Vorhees, Judge, Delaware Circuit Court No. 1

Richard A. Dailey, Judge, Delaware Circuit Court No. 2

Robert L. Barnet, Judge, Delaware Circuit Court No. 3

John M. Feick, Judge, Delaware Circuit Court No. 4

Wayne J. Lennington, Judge, Delaware Circuit Court No. 5

Local Rule: LR18-AR00-DLR-0801

EXECUTIVE ORGANIZATION

(Rules 0801-0809 signed on May 29, 2008)

A. Board of Judges. The five judges of the Delaware Circuit Court shall constitute the Board of Judges.

B. Presiding Judge. At the annual fall meeting the Board of Judges shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months, whose one-year term shall begin the following January 1st. If available, the judge whose term as presiding judge has just ended shall serve as acting presiding judge when the presiding judge is unavailable. The presiding judge shall, as delegated by the Board of Judges:

1. Direct preparation of the agenda and minutes of the Board of Judges meetings;
2. Preside over the Board of Judges meetings and call special meetings as necessary;
3. Ensure efficient operation of the court system and compliance with these Rules;
4. Submit the annual budget for the court system, as approved by the Board of Judges, to include operation of the Delaware Circuit Court's Probation Department, public defenders and maintenance of an adequate law library;
5. Present to the Board of Judges recommendations as to appointments or selections required of a circuit court judge.
6. Direct preparation and circulation of all annual reports for the court system and amendments to these Rules;
7. Maintain and distribute to the other judges policy manuals covering bond schedules, juror excuses, caseload allocation schedules and other matters pertaining to the day-to-day operation of the court system; and
8. Perform other duties as directed by the Board of Judges or as set out in these Rules.

C. Quarterly Meeting. The Board of Judges shall meet quarterly to make policy decisions, provide educational reports, and review operations of the court system. The Director of Court Services, hereinafter referred to as the "court administrator" will be required to attend these meetings and participate in discussions. The meeting will be held during the months of January, April, July, and October, on the 3rd Wednesday at Noon. A schedule of said meeting dates will be delivered each January by the Office of Court Services to each judge, chief adult probation officer, chief juvenile probation officer, and public defender.

D. Fall Meeting. Each fall (October) the Board of Judges and the court administrator shall attend an extended meeting to discuss:

1. Selection of the next presiding judge;
2. Implementation of the next annual budget as approved by the County Council;
3. Allocation of caseload;
4. The annual reports and performance of the Adult and Juvenile Probation Department, the Office of Court Services, and the Office of the Public Defender.

E. Decisions. Whenever an action of the entire court is required, including selection of a presiding judge under I.C. 33-33-18, the judges herein shall act in concert. If the judges disagree, the decision of the majority of the judges controls. Local Rules shall be made by a vote of the majority of the Board of Judges.

Local Rule: LR18-AR00-DLR-0802

CASELOAD ALLOCATION

A. Purpose. First and foremost, the judicial officers of Delaware Circuit Court shall make thoughtful, timely, reasoned and just decisions. The allocation of caseload must reflect this purpose.

B. Procedure. The Board of Judges annually shall:

1. Review and assess literature from the Indiana State Bar Association, the American Bar Association, and the National Center for State Courts.

2. Review and consider suggestions made by the Delaware County Bar, the prosecuting attorney, the public defender, and the clerk of courts.

3. Review and analyze the statistics on current workload and case flow within the Delaware Circuit Court.

4. Give due weight to the expertise of each judge, the stress associated with certain caseloads, and the goal of keeping each judge competent in all areas of the law.

5. Analyze whether the current allocation is providing excellent public service. There shall be a presumption in favor of the current allocation in order to preserve public confidence in the system, promote stability for the employees of the court system, and avoid inefficient use of personnel, time and resources to effectuate change.

C. Implementation. The Clerk of Delaware County shall maintain a filing system, by computer or otherwise, implementing the caseload allocation approved by the Board of Judges. The current allocation is contained in the Caseload Allocation of Addendum I to these Rules, which outlines the new caseload reallocation, effective January 1, 2007. If the caseload allocation is changed by order of the Board of Judges, the presiding judge shall forward the amended allocation to the Clerk of the Supreme Court and Court of Appeals, the State Court Administrator, the Clerk of Delaware Circuit Court, and the President of the Delaware County Bar Association for approval by the Supreme Court.

D. Individual Case Transfer. Nothing in this Rule shall preclude the transfer of an individual case from one division of the Circuit Court to another division to promote efficiency and provide for timely resolution of cases. The transferring judge shall direct the Clerk to resubmit the case for transfer to a specific division as designated in the Local Rules of Criminal, Civil, and Small Claims Procedures. In all Orders of Transfer, provisions shall be made to ensure all applicable costs and fees be allocated to the proper cause of action.

Local Rule: LR18-AR00-DLR-0803

LOCAL RULES OF PRACTICE

A. Purpose. Local rules of practice and procedure now in existence and not inconsistent with Administrative Rules will continue to be in existence. Any new local rule will be promulgated pursuant to Trial Rule 81.

B. Procedure. Each year the Board of Judges shall review the local rules and shall consider changes and additions suggested by the Delaware County Bar, the prosecuting attorney, the public defender, and the clerk of courts. Further, the Board of Judges shall review and assess local rules adopted by other counties and jurisdictions.

C. Adoption. On July 1, 2000, and thereafter as amended, the Local Rules of Practice and Procedure for the Delaware Circuit Court are adopted and effective in all divisions of the Delaware Circuit Court. A copy of the Local Rules shall be forwarded to the Clerk of the Supreme Court and the Court of Appeals, the State Court Administrator, the Prosecuting Attorney, the Clerk, the Public Defender, and the President of the Delaware County Bar Association.

Local Rule: LR18-AR00-DLR-0804

BUDGETARY MATTERS

A. Budgets. The Board of Judges shall direct the preparation of one unified budget for all divisions of the Court, the Probation Department, the Public Defender's Office and the Office of Court Services to be funded from the county general fund upon approval of the County Council, and a separate budget for Title IV-D Court. The Title IV-D Court shall remain separate and apart from the unified budget, except for the allocation in the unified budget for the public defender. The Board of Judges shall further direct the preparation of additional budgets for programs funded by User Fee income upon approval by the County Council.

B. Annual Procedure. Each year the Board of Judges shall establish a schedule of budget preparation, review and submission with the goal of providing for the effective functioning of the Court, as follows:

1. Each judge, the chief probation officers and the public defender shall submit written budget requests to the court administrator. These requests shall be specific and well justified in light of the past year's expenditures and the future needs of the offices. Any request shall be submitted by May 15.

2. The Board of Judges shall meet to review the budget requests and may request further discussion from the chief probation officers, the court administrator, the public defender, or any other employee.

3. The Board of Judges shall establish budget priorities and shall cause the court administrator to prepare budget proposals for submission to the County Council.

C. Allocation of Resources. The Board of Judges shall establish guidelines for allocation of individual line items in the yearly budget approved by the County Council.

D. Claims. Claims shall be submitted to the Office of Court Services for approval by the court administrator and subsequent submission to the Auditor's Office. The court administrator may approve all proper payroll claims and may approve all purchase, travel and training claims not exceeding maximum amounts set by the Board of Judges from time to time. Any claim exceeding these guidelines must be submitted to the Board of Judges for approval.

E. Transfers Within Budget Categories. If the court administrator determines that a transfer is necessary within budget categories, the court administrator shall direct the Auditor's Office to perfect said transfer, following consultation with the presiding judge.

F. Transfers Between Budget Categories. If the court administrator determines that a transfer between budget categories is necessary, a written proposal shall be submitted to the presiding judge for approval prior to submission to the County Council.

G. Additional Appropriation. If the court administrator determines that an additional appropriation is necessary, a written proposal shall be submitted to the Board of Judges.

H. Mandate. No individual judge shall exercise mandates for the adequate provision of court services, personnel, or other expenditures. without consultation with the entire Board of Judges.

Local Rule: LR18-AR00-DLR-0805

PERSONNEL

A. General Organization. The Delaware Circuit Court employs personnel, as follows:

1. Court Divisions
Official Court Reporter
Assistant Court Reporter
Court Secretary
Court Bailiff
Riding Bailiff
Public Defender
Master Commissioners
Probate Commissioner
2. Adult Probation Department
1 Chief Adult Probation Officer
1 Assistant Chief Adult Probation Officer
Adult Probation Officers
Secretaries to assist probation officers
User Fee Clerk/Secretary
3. Juvenile Probation Department
1 Chief Juvenile Probation Officer
1 Assistant Chief Juvenile Probation Officer
Juvenile Probation Officers
1 Secretary for Juvenile Probation
1 User Fee Clerk for Juvenile Probation
4. Office of Court Services
Court Administrator
Administrative Assistant
Jury Administrative Assistant
5. Office of Public Defender
1 Public Defender
Deputy Public Defenders
Legal Secretaries to assist public defenders
1 Investigator

B-1. Court Division. The Delaware Circuit Court shall have five court divisions as follows: Delaware Circuit Court shall become Delaware Circuit Court No. 1; Delaware Superior Court No. 2 shall become Delaware Circuit Court No. 2; Delaware Superior Court No. 1 shall become Delaware Circuit Court No. 3; Delaware Superior Court No. 3 shall become Delaware Circuit Court No. 4; Delaware Superior Court No. 4 shall become Delaware Circuit Court No. 5. Pursuant to IC 33-33-18-7, the judge of each court division shall have the sole authority to employ an official court reporter, an assistant court reporter, court secretary or secretaries, a court bailiff, and riding bailiff/s to serve at the pleasure of the judge.

The Board of Judges shall appoint and employ master commissioners to full time positions. One of those master commissioners hired will also perform duties as IV-D Commissioner 2/3 of the workweek to maintain IV-D funding for that court. The commissioners will not be entitled to practice law. The appointments will be for a two (2) year term. The duties of the master commissioners will be as set out in the Terms of Employment of a Master Commissioner.

B-2. Court Divisions - Title IV-D Court. The Board of Judges shall have the sole authority to employ Title IV-D Court personnel and the presiding judge shall have the right to terminate their employment after consulting with the Board of Judges. All employees of the Title

IV-D Court serve at the pleasure of the Board of Judges. As directed by the Board of Judges, the presiding judge shall supervise employees of the Title IV-D Court, and may delegate certain supervisory responsibilities to the staff and other employees as set out in the Delaware County Circuit Court Personnel Policy and Procedures.

C-1. Adult Probation Department. The Board of Judges shall have the sole authority to employ Probation Department personnel and to terminate their employment. All employees of the Probation Department serve at the pleasure of the Board of Judges. The Board of Judges shall advertise the position of chief adult probation officer and assistant chief adult probation officer with the Delaware County Adult Probation Department, and interview and screen applicants for said position. The chief adult probation officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. The chief probation officer shall provide to the Board of Judges a written summary of qualified applicants, with a recommendation of three applicants to be hired by the Board of Judges.

C-2. Adult Probation Staff and Public Defender Staff. The Board of Judges shall have the sole authority to employ the staff of the Adult Probation and Public Defender Office and to terminate their employment. All staff in the Adult Probation and Public Defender Offices serve at the pleasure of the Board of Judges. As directed by the Board of Judges, the presiding judge shall supervise the staff of the Adult Probation Department and the Public Defender Office. The presiding judge may delegate certain supervisory responsibilities to the staff as set out in the Delaware County Circuit Court Personnel Policy and Procedures.

C-3. Juvenile Probation Department. The Board of Judges shall have the sole authority to employ Juvenile Probation Department personnel and the supervising judge exercising juvenile jurisdiction shall have the authority to terminate their employment. All employees of the Juvenile Probation Department serve at the pleasure of the Board of Judges. The Board of Judges shall advertise the position of Chief Juvenile Probation Officer, and interview and screen applicants for said position. The Chief Juvenile Probation Officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. The Chief Juvenile Probation Officer shall provide to the Board of Judges a written summary of qualified applicants, with a recommendation of three applicants to be hired by the Board of Judges. As directed by the supervising judge exercising juvenile jurisdiction, the Chief Juvenile Probation Officer shall supervise employees of the Juvenile Probation Department, and may delegate certain supervisory responsibilities to the staff and other employees as set out in the Delaware County Circuit Court Personnel Policy and Procedures.

D. Office of Court Services. The Board of Judges shall have the sole authority to employ personnel in the Office of Court Services and to terminate their employment. The court administrator shall advertise an available position and interview and screen applicants as directed by the Board of Judges. The court administrator shall provide to the presiding judge a written summary of qualified applicants, with the court administrator's recommendation of three applicants to be hired by the Board of Judges. Employees of the Office of Court Services shall be supervised by the Director of Court Services/Court Administrator.

E. Office of the Public Defender. The employment and management of public defenders and their staff are subject to this Rule. The secretarial staff of the Public Defender Office shall follow rules set out in C-2 of this Rule.

F. Gal-Casa. The Board of Judges shall have the sole authority to employ personnel in the Gal-Casa Office. The Director of Gal-Casa shall advertise an available position and screen applicants as directed by the Board of Judges. The Director shall provide to the presiding judge a written summary of qualified applicants, with the Director's recommendation of three applicants to be hired by the Board of Judges. Employees of the Gal-Casa Program shall be supervised by the Director. All applicants will be required to take a skills test.

G. Personnel Policy. The Board of Judges shall maintain a written personnel policy setting forth policies and procedures regarding the recruitment, selection, management, and termination of employees and the conditions and expectations of their employment. Each employee shall be given a copy of the personnel policy when employment begins.

H. Termination. If any employee of the Title IV-D Court, secretarial staff of the Adult Probation Department, Gal-Casa Department, Juvenile Probation Department or the Public Defenders' Office is not performing adequately, the designated supervising judge or presiding judge shall notify the Board of Judges in writing that termination of the employee is appropriate. The designated supervising judge or the presiding judge of the designated departments in this Paragraph H shall be authorized to terminate the employee.

Local Rule: LR18-AR00-DLR-0806

ADMINISTRATIVE MANAGEMENT

A. Management Team. The court administrator, chief probation officers, public defender and presiding judge shall constitute a management team for administrative issues. The team coordinates personnel policy issues and fiscal issues, identifies issues or procedures that may impact outside specific divisions, maintains consistency on administrative issues among the divisions, and addresses other issues and projects within the discretion of the presiding judge.

Local Rule: LR18-AR00-DLR-0807

OFFICE OF COURT SERVICES

A. Establishment and Purpose. The Board of Judges has established an Office of Court Services to coordinate jury management records, statistics compilation, court security, financial planning and budget management, case flow management, and public information and education for the Delaware Circuit Court.

B. Director of Court Services - Court Administrator. As directed by the Board of Judges, the court administrator shall prepare and monitor the court's budgets; coordinate continuing education and training for court personnel; assist in researching, defining, developing and implementing new programs and procedures; attend and coordinate Board of Judges meetings, coordinate and implement court security plans and perform other duties as required.

C. Other Personnel. The Board of Judges, through the court administrator, shall hire additional administrative aides, clerical staff and bailiffs as needed to provide services to the Court.

D. Financial Planning and Budget Management. The Office of Court Services shall be responsible for the preparation, monitoring and coordination of all budgets of the Delaware Circuit Court. All required fiscal reports are prepared for review by the Board of Judges. This office serves as primary liaison with the Auditor's Office, and prepares and submits payroll, claims and employee status reports as required. This office oversees maintenance and service of equipment.

E. Jury Management. The Office of Court Services is responsible for all functions pertaining to the provision of jury panels for the divisions of the Delaware Circuit Court.

F. Records Management. The Office of Court Services is responsible for compiling and reporting all statistical information regarding caseloads and case movement in the divisions of the Delaware Circuit Court. A written report summarizing the activity operation of the court shall be delivered to the Board of Judges by March 31 of each year.

G. Court Security. The office will assist in obtaining security from the Sheriff's Department for the judges, staff, public, in courtrooms and in court offices, only upon request of court personnel; otherwise, the court bailiff will be responsible for making arrangements for security with the Sheriff's Department.

H. Case flow Management. The Office of Court Services is responsible for assessing case flow and workload distribution to the divisions of the Delaware Circuit Court, and provides supplemental staff when needed and/or available.

I. Public Information and Education. The Office of Court Services serves as liaison officer between the Delaware County Clerk and the Board of Judges. The Filing Office is the designated reception area of the Delaware County Justice Center. The daily court schedule is compiled and distributed by the Filing Office. All stamped and non-stamped mail is disseminated by the Filing Office. File stamps are maintained in the Filing Office to facilitate receipt of pleadings and correspondence for local attorneys. File stamps are also maintained in the individual court divisions. Mail receptacles are provided in the Office of Court Services for local attorneys to collect daily distribution of court documents. All questions regarding new filings or other procedures regarding the court shall be brought to the attention of the court administrator by the designated representative of the Delaware County Clerk.

Local Rule: LR18-AR00-DLR-0808

PROBATION DEPARTMENT

A. Establishment and Purpose. As required by Indiana law, the Board of Judges has established a Probation Department to serve all divisions of the Delaware Circuit Court. The Probation Department staff conducts interviews and investigations, prepares Pre-Sentence and Juvenile Reports, and oversees probationers and juveniles for compliance with court orders. These activities are conducted with the goals of rehabilitating offenders and protecting society. Further, the Probation Department develops and maintains community-based alternate correction programs.

B. Chief Adult Probation Officer. As directed by the Board of Judges, the chief adult probation officer shall oversee the efficient operation of the adult probation department; assist in the hiring and discharge of personnel; evaluate and train department employees; compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department as provided by the Board of Judges; and perform other duties as required.

B-1. Chief Juvenile Probation Officer. As directed by the Board of Judges, the chief juvenile probation officer shall oversee the efficient operation of the juvenile probation department; assist in the hiring and discharge of personnel; evaluate and train department employees; compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department as provided by the Board of Judges; and perform other duties as required.

C. Procedures. The Probation Department shall maintain a written policy, procedure and training manual which sets forth the manner of operation of the department and the duties of each officer or staff member.

D. Statistics and Reports. The Probation Department shall maintain all statistical reports and records required by law and necessary for compliance with grant or program authorities. A written report summarizing the activity and operation of the Probation Department shall be delivered to the Board of Judges by March 31st of each year.

E. Fees and Costs. Court-ordered supervision fees shall be collected by designated staff pursuant to an established system of financial records management. This system, subject to State Board of Accounts audit, shall delineate special funds accounts, maintenance of daily collections and ledgers, and proper deposit and disbursement of funds. An internal audit will be conducted any time the collection clerk or staff responsible for the collection of fees terminates employment.

Local Rule: LR18-AR00-DLR-0809
OFFICE OF THE PUBLIC DEFENDER

A. Establishment and Purpose. The Board of Judges has established an Office of the Public Defender to represent indigent persons in proceedings threatening their liberty or other substantial interest.

B. Independent Professional Judgment. The public defender and the deputy public defenders shall provide the best possible representation to their clients, advancing all appropriate defenses and arguments under the law. No person shall interfere with, impede, or inhibit the exercise of the attorney's independent professional judgment.

C. Public Defender. The Board of Judges shall appoint and employ the public defender as the administrator of the Office of the Public Defender to serve at the pleasure of the Board of Judges. The public defender shall supervise all employees of the office, report to the Board of Judges regularly, assist in the preparation of budget requests, maintain caseload rotation and statistical reports, submit a written annual report concerning the Office of the Public Defender, and perform such other duties as directed by the Board of Judges.

D. Hiring. The public defender shall interview, screen, and assess all applicants for any position in the Office of the Public Defender. For non-attorney positions, the public defender shall recommend in writing three applicants to the Board of Judges. For deputy public defender positions, the public defender shall provide to the Board of Judges a written summary of qualified applicants, with the public defender's recommendation of three applicants to be hired by the Board of Judges. The public defender and the deputy public defenders will be required to sign a Supplemental Employment Terms prior to employment.

E. Termination. If any employee of the Office of the Public Defender is not performing adequately, the public defender shall notify the Board of Judges in writing that termination of the employee is appropriate. If the Board of Judges concurs, the public defender shall be authorized to terminate the employee.

F. Delaware County Circuit Court Personnel Policy and Procedures. The Delaware County Circuit Court Personnel Policy and Procedures shall apply to all employees of the Office of the Public Defender, except as stated otherwise in this Rule 9. The public defender shall maintain personnel files on each employee, shall conduct an annual evaluation of each employee, and shall make available upon request a summary of all employee evaluations to the Board of Judges. Public Defender secretaries shall make a written request for vacation or personal days to be taken; contact should be made with the presiding judge for sick days. All public defenders shall follow rules as further established in the Supplemental Employment Terms signed by all public defenders and presiding judge.

G. Training. The public defender and the deputy public defenders shall maintain continuing education as required by the Indiana Supreme Court.

H. Disciplinary Actions and Legal Actions. If a client or a former client has taken or may take legal action against the, the public defender or any deputy public defender, the public defender shall immediately notify the Board of Judges of any such disciplinary action or legal action.

I. Independent Legal Practice. Legal practice independent from Delaware Circuit Court assigned cases must not interfere with the responsibilities of the public defender and the deputy public defenders to the Delaware Circuit Court.

J. Caseload. The caseload of the Office of the Public Defender shall include criminal cases, juvenile cases, civil commitment cases, termination of parental rights cases, CHINS cases, probation revocation and modification cases, appeals, and other cases as determined by the Board of Judges.

K. Assignment and Rotation. The public defender and deputy public defenders shall continue to be assigned to a specific division of the Delaware Circuit Court. In the event assignment

to a different division is required, the public defender will make such assignment as requested by any judge.

L. Annual Report. The public defender shall prepare an annual written report summarizing the activities of the Office of the Public Defender, outlining the operation of the office, and incorporating statistics on the case flow. This report shall be delivered to the Board of Judges by the public defender by the April Board of Judges Meeting, of each year and shall cover the preceding calendar year.

Local Rule No.: LR18-AR00-DLR-0810

**Local Rule Governing the Storage, Processing, Disposition
of Drug Forfeitures and All Other Property Held as Evidence**

The Judges of the Delaware Circuit Court hereby issue the following Local Rule in relation to storing, processing, disposition of drug forfeitures and all other property held as evidence:

I

ASSETS. All assets seized by state, city, county, and town law enforcement officers pursuant to I.C. 34-24-1-1 and I.C. 34-24-1-2 shall be booked into the property room of the respective agency in the following manner: the Indiana State Police will utilize their own, secure facilities as their property room; otherwise, the agency with the originating case report number shall determine the property room to which any evidence seized shall be consigned, which shall be either the Muncie Police Department property room or the Delaware County Sheriff's Department property room.

B. The property shall be inventoried and kept until adjudication of the civil drug forfeiture case pursuant to I.C. 34-24-1-2. For racketeering forfeitures, see I.C. 34-24-2-2.

C. The State of Indiana shall file the forfeiture action as a miscellaneous civil (MI) action in the Circuit Court Division where the State either has filed or is required to file the related criminal action per Local Rule. If the State does not intend to file a criminal action, the State shall then file the forfeiture as a miscellaneous (MI) action in the court where the criminal case would have been filed.

D. The court shall not enter a final judgment in the "MI" action until after the criminal action is disposed by sentencing, unless the court finds good cause exists to do so.

II

ADJUDICATED DRUG FORFEITURES

A. All drug forfeitures must be adjudicated pursuant to I.C. 34-24-1-4. See I.C. 34-24-2-1 *et seq.* for racketeering forfeiture procedures. See I.C. 34-24-1-9 for situations where the prosecuting attorney determines that the evidence should be turned over to the Department of Justice.

B. Pursuant to I.C. 32-24-1-3 (a), upon an answer having been filed, a hearing would be scheduled to determine the legitimacy of the forfeiture by a preponderance of the evidence. Pursuant to I.C. 32-24-1-3(d), if at the end of the allotted time for an answer, there is no answer on file, the court, upon proper motion, may enter judgment in favor of the State.

C. As part of any judgment in favor of the state, city, or county, the court shall determine the amount of law enforcement costs, which shall include the costs of the police agencies as well as the costs of prosecuting the civil and criminal actions. See I.C. 34-6-2-73. "*Any excess in value of the proceeds or the money over the law enforcement costs [shall] be forfeited and transferred to the Treasurer of State for deposit in the common school fund.*" I.C. 34-24-1-4(d)(2) (D).

III

NON-CASH ASSETS

A. Non-cash assets may *if appropriate* be delivered for a period not to exceed three years to the city, county, or town law enforcement agency, which seized the property. After that period, the property shall be delivered to the Sheriff for public sale. I.C. 34-24-1-4(c).

B. A vehicle may be accepted by the governmental unit if appropriate for law enforcement use. For example, in determining whether to retain a luxury vehicle, the governmental unit should determine whether it has a bona fide use; further, when a vehicle ceases to be useful, as where a vehicle is initially needed for an undercover operation, but, once used, has become known to the criminal element and cannot be used again, an earlier sale than the three year period is appropriate.

C. An inventory of such assets should be made (which should correspond with the property booked into the property room), and the property delivered to the Sheriff for the next public sale. Public Sales should occur at least once a year.

D. In each action, the State shall file with the Court a report of the sale of all such property, together with proposed disposition in accord with the original determination of law enforcement costs, including those due the Criminal Justice Institute Grant Fund Program Income Account. The Court shall review and approve the report. The forfeiture order allowing use of non-cash assets shall require the sale thereof and a report to be made to the Court within three years. The cash shall be receipted into the Clerk's trust account for payment into the appropriate general fund account of the city, county, or town, and, when appropriate, to the State Treasurer for the common school fund. Cash ordered forfeited by the Court should likewise be receipted into the Clerk's trust account. When the monies are paid over to the appropriate general fund, the receipt (from the city) or the quietus (from the county) should be filed with the Court, as well as the receipt from the State Treasurer in the case of payment to the Common School Fund. *Note: At present, federal forfeiture funds shared with a local law enforcement agency are to be sent to the governmental unit of which that agency is a part. Disbursement of the funds is to be by the fiscal body of that unit (City Council for Muncie, County Council for Delaware County) in accord with Federal guidelines.*

IV

MATCHING FEDERAL GRANTS

A. In the event that the law enforcement agencies receive a federal grant, e.g., the Criminal Justice Institute Grant to the Muncie-Delaware County Drug Task Force, the court forfeiture judgments involving law enforcement costs should first divide the grant amount by the total budget for the recipient joint drug task force, which will result in a percentage (for example, a grant of \$30,000 divided by a total budget of \$300,000 equals 10%). The Court, in assessing law enforcement costs, shall first award the appropriate percentage to the Grant Fund Program Income Account; then, the Court shall divide the remainder of law enforcement costs proportionally between the units of government, and, if any surplus remains, the Court shall award the same to the State common school fund. Again, the Clerk of the Court would receive the monies into the Clerk's Trust Account and make disbursements as indicated in Section III, Paragraph (D) above.

V

ATTORNEY FEES

A. The person prosecuting civil forfeitures shall be paid pursuant to one of two written agreements: 1) in the event the estimated value of the assets to be forfeited are of a value of \$10,000.00 or less, the written agreement shall provide for a fee up to 25% of the sale value of the assets; or 2) in the event the estimated value of the assets to be forfeited are of a value of more than \$10,000.00, the written agreement shall provide for an hourly fee to be paid to the person providing the service with the hourly fee set out in the agreement. A copy of the agreement shall be provided to the executive of the unit of government for which the services are being provided. The person providing the services under the written contract should not be a deputy prosecutor. Existing federal guidelines mandate "*there should be no appearance that law enforcement decisions are motivated by the prospect of receiving forfeited funds.*" In any event, the fee in each forfeiture case shall be conditioned on court approval using the factors established in Rule 1.5 (a) of the Rules of Professional Conduct.

VI

DISPOSITION OF ABANDONED PROPERTY

A. Disposition of property under I.C. 35-33-5-5(c)(1) notes, "[f]ollowing the final disposition of the cause. . . property which may be lawfully possessed shall be returned to its rightful owner, if

known. If ownership is unknown, a reasonable attempt shall be made by the law enforcement agency holding the property to ascertain ownership of the property.” After a ninety-day (90) abandonment provision, the law enforcement agency holding the property must dispose of it through public auction; however, “[the] proceeds shall be paid into the county general fund.” The better practice would appear to call for notification of the rightful owner as part of a supplemental proceedings in the Trial Court, and, when the rightful owner cannot be located within the statutory period, to have the Court (1) confirm that reasonable efforts have been made to ascertain ownership or the rightful owner has been duly notified to take possession and has not done so, (2) determine that ninety (90) days have passed, (3) authorize the Sheriff to conduct the public sale, and (4) order the Sheriff to report the proceeds to the Court and deposit the same into the Clerk’s trust account, with the Clerk paying the proceeds over to the county general fund and filing the quietus with the Court.

VII

CLERK-TRUST REPORT

The Clerk shall also make quarterly trust fund reports of receipts and disbursements to the courts, the prosecutor, the state, city, county, and town law enforcement agencies, and the fiscal bodies and fiscal officers of the units of government involved.

Signed September 26, 2008. Effective October 1, 2008.

Marianne Vorhees, Judge
Delaware Circuit Court No. 1
Robert L. Barnet, Judge
Delaware Circuit Court No. 3
Chris M. Teagle, Judge
Delaware Circuit Court No. 5

Richard A. Dailey, Judge
Delaware Circuit Court No. 2
John M. Feick, Presiding Judge
Delaware Circuit Court No. 4

In Re: Local Rule: LR18-AR01-DLR-0901

LOCAL RULE REGARDING ATTORNEY FEES IN PROBATE MATTERS

The Delaware Circuit Court has prepared the following guidelines for fees in probate matters in an effort to achieve the following objectives:

- (1) To establish uniformity in determining a fair and reasonable fee for supervised and unsupervised estates, guardianships, wrongful death actions, and minor's claim settlements in Delaware County, Indiana.
- (2) To provide a guideline to assist all judges of the Circuit Court of Delaware County in determining fair and reasonable fees.
- (3) To furnish a guideline to attorneys so that attorneys can forecast to their clients the fees the estate may incur before the administration commences.
- (4) To assist the legal profession in arriving at a fair and reasonable fee for estate work.

This schedule is not a minimum fee schedule but a maximum fee schedule. The Court recognizes that every attorney and personal representative has a right and an obligation to request a fee which is fair and reasonable for the estate work performed, taking into account the provision in the Rules of Professional Conduct which applies to all attorneys admitted to practice in Indiana. Fees should always bear a reasonable relationship to the services rendered. In an uncomplicated estate, a reasonable fee may be less than the maximum fees listed in the following schedule.

In determining an appropriate fee, the attorney, client, and Court should consider the following criteria:

- (1) The time required; the novelty, complexity, or difficulty of the legal questions involved; and the skill required to perform necessary services properly.
- (2) Who served as personal representative. The Court may consider how much time the attorney devoted to legal matters and how much time the attorney devoted to ministerial functions during supervision and representation of the personal representative.
- (3) The character of the probate and non-probate assets which are administered or transferred, including whether non-probate assets exist which must be included for federal or state estate tax purposes, and whether these non-probate assets require more work for the attorney.
- (4) Whether the probate assets are sufficient to pay for legal services or personal representative fees.
- (5) Timeliness in performing necessary estate services under statutory requirements, these rules, and the Rules of Professional Conduct.
- (6) Other factors deemed relevant by the attorney, personal representative, and/or the Court.

ATTORNEY FEE SCHEDULE

I. Administration of the Gross Estate.

A. ***Gross Estate Services*** include, but will not necessarily be limited to, opening the estate and qualifying the personal representative; preparing and filing the inventory; collecting assets; paying claims; preparing and filing non-extraordinary petitions (including but not limited to petitions to sell real or personal property, petitions to deliver personal property to beneficiaries, petitions to abandon real or personal property, and petitions for appointment of appraisers); preparing and filing the Inheritance Tax Schedule and obtaining court approval; paying inheritance taxes; preparing and filing the final report; obtaining an order approving the final report; distributing assets to beneficiaries; obtaining discharge of the personal representative; preparing and filing the supplemental report after distribution; and preparing and serving all necessary notices on interested parties, including readily ascertainable creditors of the estate, during the estate proceeding.

B. ***Gross Estate Value*** means the fair market value of all assets in the decedent's name and included in the decedent's probate estate.

C. ***Maximum Fees for Administering the Gross Estate***: the Court may approve the following maximum fees:

(1) Individual Personal Representative:

Fair Market Value Of Probate Estate Including Income	Percent Rate For Individual Personal Representative	Percent Rate For Professional Services of Attorney
First \$25,000.00	4%	8%
Next \$25,000.00	3%	6%
Next \$50,000.00	2 ½ %	5%
Next \$900,000.00	1 ½ %	3%
Next \$1,500,000.00	1%	2%
Excess of \$2,500,000.00	½ %	1%

Where the attorney acts as both the attorney and Personal Representative, the above schedule will be applied.

(2) **Corporate Personal Representative**

Fair Market Value Of Probate Estate Including Income	Percent Rate For Individual Personal Representative	Percent Rate For Professional Services of Attorney
First \$25,000.00	6%	6%
Next \$25,000.00	5%	5%
Next \$50,000.00	4%	4%
Next \$900,000.00	3%	3%
Next \$1,500,000.00	2%	2%
Excess of \$2,500,000.00	1 %	1%

D. **Non-Probate Assets.**

Non-probate assets are those assets for which the attorney representing the personal representative may assist the transferee of those assets in distribution. Non-probate assets include, but are not necessarily limited to: assets jointly owned which are transferred outside the estate administration; life insurance proceeds; annuities; retirement benefits payable to a named beneficiary other than the estate; and assets held in trust which are reportable on the federal transfer tax return or would be reportable if such return were required. Fee charges for assisting beneficiaries or transferees in transferring Non-Probate Assets shall conform to the hourly rate provision established by the Court in paragraph E below. Unless the will admitted to probate provides otherwise, fees generated by the attorney in administering Non-Probate Assets should be charged to the beneficiary or transferee, and not to the estate.

E. **Additional Fees.** Fees computed on the above schedule are intended to cover only the usual and ordinary services that are reasonably anticipated in handling the normal estate. Such fees do not contemplate all work which may become necessary in conjunction with administration, such as will contests; will construction; contested claims; family settlement agreements; death tax complications; determination of heirship; generating additional income for the estate during administration; and other similar matters. The attorney shall detail the request for additional fees in a Petition to the Court for Additional Fees.

The Court will compensate attorneys for work involving extraordinary service at an hourly rate. The attorney's hourly rate should conform to the prevailing hourly rate for legal services provided in Delaware County, Indiana, at the time the attorney provided the extraordinary services. The Court reserves the right to review and adjust the hourly rate request after considering the attorney's expertise and the nature of the extraordinary services provided.

F. **Unsupervised Estates.** The attorney and personal representative should negotiate fees for handling unsupervised estates. The Court shall not hear the requests for fees unless an objection to the closing statement is timely filed. In the absence of evidence to the contrary, the fees for handling unsupervised estates should not exceed eighty percent (80%) of the above schedules.

G. **Petitions and Hearings on Fee Requests.** All requests for approval of estate or guardianship fees shall be submitted to the Court in writing, along with an appropriate proposed order.

If the fee requested to administer the Gross Estate conforms to the Guideline in Paragraph I. (C), the Court may waive a hearing on the Petition.

If the petition to approve fees includes a request for additional fees, the Court will schedule a hearing on the petition, unless all interested parties execute a waiver and consent stating they have been advised that the fee request exceeds the Court's guidelines for administering the Gross Estate and that the fee request is for additional services. A proposed waiver and consent form is attached to this fee schedule, and the waiver and consent should be in the same or similar form as the attachment. If a waiver and consent form is filed with the petition for additional fees, the Court, at its discretion, may waive the requirement for hearing on the petition.

II. **Wrongful Death Claim Administration.**

If a wrongful death claim is settled before trial, the fee should not exceed 33 1/3 percent of the settlement amount.

If a wrongful death action proceeds to trial by court or by jury, the attorney fee should not exceed 40 percent of the court or jury award.

If a wrongful death action is appealed after trial, the attorney fee should not exceed 50 percent of the court or jury award.

The fee schedule for wrongful death actions does not preclude the attorney from recovering litigation expenses incurred in preparing for trial or in pre-trial discovery proceedings.

III. **Guardianship Fees.**

Attorneys should charge fees generated in guardianship proceedings at the customary and prevailing hourly rates in Delaware County for opening the guardianship; selling real or personal property; assisting the Guardian in filing the inventory and necessary accounting; and providing professional advice.

Attorneys shall submit petitions to approve attorney fees in writing in all cases, along with an appropriate proposed order. The Court, at its discretion, may require a hearing on the fee request of the attorney or the Guardian.

IV. **Fees for Compromising, Settling, or Trying a Minor's Claim.**

Fee requests to compromise, settle, or try a minor's claim should not exceed the fee limitations imposed by the Court for representing the client in a wrongful death action; however, the attorney may request reimbursement for suit costs and pre-trial discovery in addition to those fees.

All of Which is So Ordered this 24th day of April, 2009.

DELAWARE COUNTY BOARD OF JUDGES

Marianne Vorhees, Judge
Delaware Circuit Court No. 1

Richard A. Dailey, Judge
Delaware Circuit Court No. 2

Linda Ralu Wolf, Judge
Delaware Circuit Court No. 3

John M. Feick, Presiding Judge
Delaware Circuit Court No. 4

Thomas A. Cannon Jr., Judge
Delaware Circuit Court No. 5

LR18-AR-02-DLR-10.01

Local Rules Regarding Public Defender Fees/Secretarial Fees

Section I A. Special Public Defender Fees In and Out of Court Time

(1) In-Court time for special public defenders, the amount of Sixty Dollars (\$60.00) per hour. Supporting documentation required by way of an Attorney Affidavit detailing all time spent.

(2) Out-of-Court time for special public defenders, the amount of Fifty Dollars (\$50.00) per hour. Supporting documentation is required by way of an Attorney Affidavit detailing all time spent.

B. Fees in Addition to Annual Salary Murder Cases (Including Life without Parole)

In addition to the annual salary of a public defender and in order to fairly compensate counsel for all preparation and actual days spent in trial, the following fees will be approved:

(1) Trial of one week or less, up to \$4,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$2,500.00.

(2) Trial of two weeks or less, up to \$5,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$3,000.00.

(3) Trial of up to three weeks or less, up to \$6,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$3,500.00.

(4) If the case results in plea agreement without trial, counsel shall be paid hourly for any time over ten (10) hours, at the rate paid in Section (5) below. The cap shall be up to \$2,000.00 for lead counsel and \$1,000.00 for co-counsel.

(5) The hourly rate for Out-of-Court time for public defenders under this section is Seventy Dollars (\$70.00) per hour. The hourly rate for In-Court time for public defenders under this section is Eighty Dollars (\$80.00) per hour.

A trial attorney fee ordered paid pursuant to this schedule would be in addition to the attorney fee paid to prosecute an indigent appeal.

C. Capital Murder Cases

Compensation will be paid pursuant to applicable rule or statute and by contract with designated attorney.

D. Class A Felony Trials

Class A felony cases resulting in trial and presented by a public defender may be additionally compensated up to \$4,000.00. If the case results in a plea agreement without trial, counsel shall be paid for any time over Ten (10) hours at a rate paid in Section I B (5), with a \$1,000.00 limit on the fee for a Class A felony case without a trial. Co-counsel may be appointed at the request of lead counsel and approved by the judge in that court. Co-counsel fees allowed will be up to \$1,000.00 for trials only.

A trial attorney fee ordered paid pursuant to this schedule would be in addition to the attorney fee paid to prosecute an indigent appeal

E. Investigator Fees Murder Cases

On a case-by-case review, the undersigned reserve the right to grant additional investigator fees to public defender investigators in murder cases.

Considerations Applicable to All Fees Awarded in Section I

The judge of the court in which the case was disposed shall consider and award fees to counsel pursuant to these rules. If there is any question about the fees, the Presiding Judge shall determine the fees.

Whether counsel is entitled to fees under this section depends on how the State of Indiana filed the case. That is, if the State filed a case as a Class A felony but the Defendant pleads to a Class C felony, the attorney is still entitled to fees under this section.

All Petitions for Additional Attorney Fees under Section I must be supported by documentation, including an Attorney Fee Affidavit detailing all time spent.

Section II Public Defender Fees Appellate Procedure

(1) The fee for an appeal from a trial before the court or by jury in felony cases shall be set at **\$3,000.00**. This includes fees for all work from the Notice of Appeal through any Petition to Transfer.

(2) The fee for an appeal from a sentencing or revocation hearing in all cases shall be set at **\$1,250.00**.

(3) The fee for an appeal from a trial shall be set at **\$2,000.00** in misdemeanor cases. This includes fees for all work from the Notice of Appeal through any Petition to Transfer.

(4) The fee for filing an Appellee's brief in a case where the State has filed the appeal shall be set at **\$1,500.00**.

(5) The fee to prepare for and attend an oral argument in the Indiana Court of Appeals or the Indiana Supreme Court shall be paid at the rate of Eighty Dollars (\$80.00) per hour plus mileage. Mileage will be paid at the county rate then in effect per the Auditor of Delaware County.

All Petitions for Attorney Fees under Section II (5) must be supported by an Attorney Fee Affidavit detailing all time spent.

Section III Secretarial Fees Appellate Work:

Due to the increase in appellate fees, secretarial fees for appellate work will no longer be paid by the Delaware County Circuit Court. Public Defenders will be required to contract those services privately. Public Defender secretaries employed by the county may be hired by a public defender to perform those tasks; however preparation of the same *shall not* be performed during regular work hours or with county property, including typing, binding, reviewing, copying or other functions related to the compilation of the appeal.

Claims

If the attorney desires claims to be paid to the law firm, he or she will need to inquire of that possibility through the Auditor of Delaware County.

**In the
Indiana Supreme Court
IN THE MATTER OF)
REQUEST FOR APPROVAL)
OF LOCAL RULES)
FOR COURTS OF RECORD IN)
DELAWARE COUNTY**

Case No. 18S00-0806-MS-312

**July 6, 2010
REQUEST FOR APPROVAL OF LOCAL RULE
RE-ADOPTING CURRENT CASELOAD
ALLOCATION RULE**

The judges of the courts or record of Delaware County have met and reviewed the 2009 weighted caseload statistics of the courts of record, which review revealed that the difference in utilization between Circuit Courts of record did exceed .40 based on the 2009 Weighted Caseload Report.

That upon review of the statistical reports previously submitted it was found that Circuit Court No. 2's 4th Quarter statistics were submitted to State Court Administration blank showing no filings or dispositions for that quarter.

Further, the judges of the courts or record of Delaware County the difference in utilization between Circuit Courts No. 2 and No. 4 of record does exceed .40 based on the 2009 Weighted Caseload Report. That a re-allocation of judicial officers has been perfected wherein Circuit Court No. 2 will lose one hour of commissioner time and Circuit Court No. 4 will gain one hour, putting the difference below .40.

Therefore, the judges of the courts or record of Delaware County having corrected the erroneous record of Circuit Court No. 2's 4th Quarter Report and re-allocating the judicial officers, now finds that the actual difference in utilization between the Circuit Courts of record does not exceed .40.

Accordingly, the judges of the courts of record of Delaware County have decided to re-adopt their local rule pertaining to caseload allocation as required by Administrative Rule 1, which local rule had previously been published for public comment as required by Trial Rule 81 and which has been approved by the Supreme Court, and request the Supreme Court to approve the re-adoption of the local caseload allocation rule.

Submitted this 6th day of July, 2010.

For the Courts of Record of Delaware County
DELAWARE COUNTY BOARD OF JUDGES

Marianne Vorhees, Judge
Delaware Circuit Court No. 1
Linda Ralu Wolf, Judge
Delaware Circuit Court No. 3
Thomas A. Cannon Jr., Judge
Delaware Circuit Court No. 5

Richard A. Dailey, Judge
Delaware Circuit Court No. 2
John M. Feick, Judge
Delaware Circuit Court No. 4